Supreme Court, U.S.
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No. 95-999

IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

SECURITY MANAGEMENT CORP.,
Petitioner,

v.

BALTIMORE COUNTY, MARYLAND,
Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE
COURT OF SPECIAL APPEALS OF MARYLAND

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QUESTIONS PRESENTED

1. DO ZONING ACTIVITIES OF LOCAL JURISDICTIONS COME WITHIN THE PURVIEW OF THE TAKINGS CLAUSE OF THE FIFTH AMENDMENT AS APPLIED TO THE STATES BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION?

2. DOES DENIAL OF A REZONING REQUEST OF A LONG-TIME PROPERTY OWNER/INVESTOR FOR A PROPERTY SURROUNDED BY HIGH DENSITY ZONING, WHICH DENIAL SUBSTANTIALLY LIMITS THE USE OF THE PROPERTY BUT DOES NOT DENY ALL ECONOMIC USE THEREOF, CONSTITUTE A TAKING UNDER THE FIFTH AMENDMENT AS APPLIED TO THE STATES BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION?

3. DID BALTIMORE COUNTY FAIL TO SATISFY ITS BURDEN UNDER THE "ROUGH PROPORTIONALITY" TEST SET FORTH IN DOLAN V. CITY OF TIGARD WHEN PETITIONER'S COMPLAINT WAS DISMISSED, WITHOUT SUBMISSION OF ANY EVIDENCE FROM THE COUNTY CONCERNING THE REQUIRED NEXUS BETWEEN THE ZONING DENIAL AND THE LEGITIMATE INTERESTS OF THE COUNTY?

PARTIES TO THE PROCEEDING

The parties to the proceeding in the Court of Special Appeals of Maryland are those in the caption.

Petitioner, Security Management Corp., is owned equally be Victor Posner, Steven Posner, and Gail Posner. Additionally, Security Management Corp. wholly owns the following entities:

Ambassador Motel, Inc.
Augusta Realty, Inc.
Clapon, Inc.
Crescent, Inc.
Durand Realty, Inc.
East Rock Apts., Inc.
Glenmont Apts., Inc.
Missouri Realty, Inc.
National Planned Communities, Inc. (FLA)
National Planned Communities, Inc. (MD)
Raven Holding Corp.
Riteway Realty, Inc.
Town and Beach Tower Apts. Inc.
Miami Country Club of Miami, Inc.
Miami Holding Corp.
Executive Point, Inc.
Lawrence Lockwood, Inc.
Resources Unlimited
Universal Management Corp.
Universal Housing & Development Co.
Universal Housing Corp.
The Laurels, Inc.
Worldwide Luxury Homes, Yachts & Planes Sales & Related Services, Inc.

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No.

Supreme Court of the United States
October Term, 1995

SECURITY MANAGEMENT CORP.,

Petitioner,

- against -

BALTIMORE COUNTY, MARYLAND,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS OF MARYLAND

Petitioners herein respectfully pray that a writ of certiorari issue to review the judgment and opinion of the Court of Special Appeals of Maryland entered in this action on March 31, 1995.

OPINIONS BELOW

The decision of the Circuit Court for Baltimore County, Maryland dated February 23, 1994, granting the Respondent's Motion to Dismiss; the opinion of the Court of Special Appeals of Maryland dated March 31, 1995, affirming the lower court's ruling [the decision is reported at 104 Md. App. 234, 655 A.2d 1326(1994)]; and the Order of the Court of Appeals of Maryland dated September 13, 1995 denying the Petition for Certiorari are included in the Appendix incorporated within this Petition.

BASIS FOR JURISDICTION

Upon consideration of the Petition for Writ of Certiorari to the Court of Special Appeals of Maryland, and the responses filed thereto, the Court of Appeals of Maryland denied Petitioner's Petition for Writ of Certiorari on September 13, 1995. The jurisdiction of this Court is, accordingly, invoked pursuant to 12 U.S.C. § 1257.

STATEMENT OF THE CASE

In the late 1960's, Petitioner's corporate affiliate purchased the subject 215-acre parcel of real property as part of a larger tract, located in the Hunt Valley area of Northern Baltimore County, Maryland, for the purpose of developing a residential subdivision of mixed density structures (the "Property"). The Property, originally purchased because it was zoned to accommodate such a residential subdivision, was rezoned in

1976 to a density level which prevented its planned use. Other adjoining landowners began development of their properties in approximately 1974, which development continued up through the 1990's. With the exception of the Petitioner, all of the other adjacent landowners, who had purchased their property for residential and commercial development, were granted high density zoning and were permitted to develop in accordance with their original investment-backed expectations.

In 1992, during Baltimore County's Comprehensive Rezoning Process, Petitioner submitted to the Baltimore County Council a petition requesting that the Council rezone the Property to accommodate a residential subdivision with mixed density structures. Under the plan submitted with the petition, the Petitioner proposed to build approximately 3,000 dwelling units, including townhomes, multi-family homes, and housing for the elderly, which would have been constructed in phases over a 15-year period at a rate of 200 units per year.

Under present zoning, Petitioner would only be permitted to build forty-three (43) dwelling units on the Property, such units being clustered on thirty (30%) percent of the Property, leaving seventy (70%) percent of the Property in its natural, undeveloped state. On October 15, 1992, the County Council denied Petitioner's zoning request.

In April, 1993, Petitioner filed the present suit in the Baltimore County

Circuit Court. In its Complaint, Petitioner asserted that:

a. the planned development would be an environmentally sensitive community that meets all State, County and Federal requirements regarding wetlands, flood plains, steep slopes, erodible soils and forestation;

b. that the County already had water and sewer service adequate to meet the needs of the planned development, and that water and sewerage planning in the late 1960's envisioned higher demands for this area than the current level of need[1];

c. that the planned development was in accord with the Master Plan adopted by the County Council;

d. that the planned development would fill a documented and substantial need for housing in the area, particularly including affordable housing and housing for the elderly;

e. that Baltimore County's school system would possess more than enough capacity to accommodate

---

[1] Petitioner, among many others, was a party to a water and sewer hookup agreement with Baltimore County, Maryland, dating from 1969 wherein Petitioner, inter alia, paid into a fund which was used to actually extend water and sewer lines to the Property and to other landowners in the immediate vicinity.

children from the planned development; and

f. that the planned development would actually improve water quality in the area and would **reduce** pollutant-loading to the adjacent Loch Raven Reservoir. (Emphasis added).

Petitioner's Complaint alleged that the Respondent's refusal to rezone the property violated Petitioner's Federal and State constitutional rights. Specifically, Petitioner alleged that it has been denied equal protection of the laws in contravention of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983, and that its rights under Article 24 of the Maryland Declaration of Rights have been violated. Petitioner also alleged that retention of the Property within the currently existing zoning regulations constitutes a taking without just compensation within the meaning, and in violation, of the Fifth Amendment as applied to the State of Maryland by the Fourteenth Amendment of the United States Constitution, 42 U.S.C. § 1983 and Art. III, §§ 40 and 40A of the Maryland Constitution. The Petitioner now seeks a Petition for a Writ of Certiorari to the Court of Special Appeals of Maryland to review that Court's ruling affirming the Circuit Court of Baltimore County's dismissal of Petitioner's Complaint alleging that Baltimore County's action constituted a taking without just compensation in violation of the Fifth Amendment of the United States Constitution.

REASONS FOR GRANTING THE WRIT

I.

THIS CASE PRESENTS AN IMPORTANT QUESTION OF LAW REGARDING THE EXTENT TO WHICH GOVERNMENT ENTITIES CAN REGULATE THE USE OF PRIVATE PROPERTY BEFORE SUCH REGULATION CONSTITUTES A "TAKING" FOR WHICH THE PROPERTY OWNER MUST BE COMPENSATED.

This case presents the important question of to what extent government regulation can limit a property owner's use of its property before such regulation will be deemed a "taking" under the United States Constitution, thereby compelling the government to compensate the owner. Any discussion of a takings claim necessarily begins with the Fifth Amendment of the United States Constitution, which contains the mandate: ". . .nor shall private property be taken for public use, without just compensation." U.S. Const. Amend. V.

At the time the Constitution was written, and for almost 150 years thereafter, the Court's concern was with physical occupation of private lands by the government. However, in 1922, in Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922), Justice Holmes stated the oft-quoted proposition: "[t]he general rule at least is that while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a taking." Id. at 415.

In 1926, the then innovative and rapidly spreading practice of State regulation of private land use through

zoning was challenged as fundamentally having taken regulation "too far." The Supreme Court, in part by analogizing zoning to the historic common law control of nuisances, upheld, against a charge of facial invalidity, the power of government to enact and implement zoning laws. Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). However, the Court noted that in an individual case, a zoning rule as applied to a specific tract of land could violate the protections provided by the Constitution. Id. at 395. Two years later, the Court struck down the specific application of a Cambridge, Massachusetts zoning ordinance to a particular piece of property as violative of the Fifth Amendment. Nectow v. City of Cambridge, 277 U.S. 183 (1928). "The governmental power to interfere with the general rights of the landowner by restricting the character of his use, is not unlimited, and other questions aside, such restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, morals, or general welfare." Id. at 188.

After a 50-year hiatus from these issues, the Court, in 1978, re-entered the debate by defining the notion of when a regulation goes "too far." Penn Central Transp. Co. v. New York City, 438 U.S. 104 (1978). The Court held that three criteria would determine the outcome: (1) the character of the governmental action, (2) the economic impact of the regulation on the claimant, and (3) the extent to which the regulation interfered with the property owner's distinct investment-backed expectations. Id. at 124. This Court has opined that land use

regulation can affect a taking if it "does not substantially advance legitimate state interests . . . or denies an owner economically viable use of [its] land." Keystone Bituminous Coal Ass'n v. Debenedictis, 480 U.S. 470, 485 (1987).

II.

THE DENIAL OF A REZONING REQUEST OF A LONG-TIME PROPERTY OWNER/INVESTOR FOR A PROPERTY SURROUNDED BY HIGH DENSITY ZONING, WHICH SUBSTANTIALLY DENIES THE OWNER/INVESTOR ITS DISTINCT INVESTMENT-BACKED EXPECTATIONS (BUT NOT OF ALL USE THEREOF), CONSTITUTES A TAKING UNDER THE FIFTH AMENDMENT.

In its decision affirming the dismissal of Petitioner's Complaint, the Court of Special Appeals of Maryland held that Petitioner overlooked the important modifier "all" when it argued that a regulation may constitute a taking if it denies the owner the economically beneficial use of its land. Security Mgmt. v. Baltimore County, 104 Md. App. 234, 242, 655 A.2d 1326, 1330 (1994). The Court noted a prior Maryland Court of Appeals' decision, Waters v. Montgomery County, 337 Md. 15, 650 A.2d 712 (1994), which held that, under Lucas v. South Carolina Coastal Council, 112 S. Ct. 2886 (1992), a regulation does not go "too far" unless it "denies ***all*** economically beneficial and productive use of land." (Emphasis added.) Waters, 337 Md. at 40, 650 A. 2d at 724, quoting Lucas, 112 S. Ct. at 2893. This reading of Lucas and its progeny by the Court of Special Appeals of Maryland is incorrect.

In Lucas, the Plaintiff purchased two ocean front lots with the intention of building a home for himself on one, and a home for sale on the other. Between the time he purchased the lots and the time he was ready to develop, South Carolina had enacted legislation aimed at preserving and protecting the fragile ecology of the beach and dune area. Pursuant to that regulation, a state agency determined that no buildings could be constructed oceanward of a line drawn on the upland side of the Plaintiff's property, thus precluding the Plaintiff from building on his property. Id. at 2889-90.

There was no question in Lucas that the Plaintiff had distinct investment-backed expectations for his property. And despite the State's argument that the Plaintiff still retained the untrammeled right to use his property to view the waves and to cross upon it to the beach, there was little doubt that the economic value of his property had been essentially destroyed by the regulatory imposition. Id. at 2896.

The Court reasserted its holding in Penn Central by noting that the Fifth Amendment is violated when land use regulation "does not substantially advance legitimate state interests or denies an owner economically viable use of [his] land." Id. at 2894. The Court went on to further hold that since the Plaintiff had been called upon to sacrifice all economically beneficial use of his land in the name of the common good, that is to leave his property

economically idle, he did suffer a taking. Id.

Justice Stevens, writing separately, criticized as arbitrary the notion that "[a] landowner whose property has diminished in value 95% recovers nothing, while an owner whose property is diminished 100% recovers the land's full value." Id. at 2919 (Stevens, J. dissenting). In response, Justice Scalia, writing for the Court, noted that Justice Stevens' analysis "errs in its assumption that the landowner whose deprivation is one step short of complete is not entitled to compensation." Id. at 2894, n.8. In fact, Lucas represents the only time this Court has used the term "all" in conjunction with the standard test for determining whether a regulation goes "too far" and is therefore in violation of the Fifth Amendment. Presumably, Justice Scalia's comments in footnote 8 indicate that the use of the term "all" was merely inserted by the Court because of the unique circumstances at issue (a case where ALL use, in fact, was taken), and did not represent a change in the standard which courts should use to analyze takings claims.

The Court has indirectly been confronted with the issue of whether "all" economic value must be deprived before a landowner is entitled to compensation on a number of occasions. In Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987), the Court considered whether the California Coastal Commission's refusal to grant the Nollans' coastal development permit to construct a seaside bungalow unless they agreed to grant a public easement to pass

in front of the bungalow constituted a taking. The Court affirmed the traditional standard that a land use regulation does not affect a taking if it substantially advances a legitimate state interest and does not deny an owner economically viable use of its land, and held that the exaction of an easement across the Nollans' property for beach access was totally unrelated to the interests sought to be advanced, i.e., protecting visual access to the ocean. Id. at 840. The Court emphasized that "our cases describe the condition for abridgment of property rights through the police power as a 'substantial advancing' of a legitimate state interest." Id. at 841.

In light of the Court's finding that the Commission's action did not substantially advance a legitimate state interest, the Court never considered whether the Commission's action deprived the Nollans of the economically viable use of their land. The Coastal Commission's regulation was held to be in violation of the Fifth Amendment, even though the Nollans retained a substantial percentage of their beachfront property to construct a new home. See also Dolan v. City of Tigard, 114 S. Ct. 2309 (1994)(holding that a taking did occur even though the Petitioner was able to derive substantial economic use from her property).

Moreover several federal appellate courts have confronted this precise issue. The Eleventh Circuit, in Reahard v. Lee County, 968 F.2d 1131 (11th Cir. 1992), considered the Reahards' contention that the promulgation of the

Lee County, Florida comprehensive land use plan affected a taking of their 40-acre waterfront property. The land use plan limited development of the Reahards' parcel to a single residence, or to uses of a recreational, open space, or conservation nature. Id. at 1113. Obviously, forty (40) acres of prime waterfront property with direct river access to the Gulf of Mexico which could be developed with a single residence was not worthless or useless land.

The Eleventh Circuit did not simply conclude, however, that the Richards were not entitled to just compensation merely because they did retain economically viable use of their land. In fact, the Eleventh Circuit specifically noted that the Reahards' taking claim should be evaluated according to the ad hoc formula utilized in the Penn Central case. In this regard, the Eleventh Circuit found that the trial court had failed to undertake the kind of analysis required by Penn Central and remanded the case for further consideration. Specifically, the Court held:

> In the instant case, the magistrate judge, serving as factfinder, did not analyze the factors noted above, nor did he set forth the factual findings necessary for such an analysis. In this context, a proper takings analysis would address a number of questions. In this case those questions are: 1) the history of the property - when was it purchased? How much land was purchased? Where was the land located? What was the nature of title? What was the composition of

> the land and how was it initially used?; 2)the history of development - what was built on the property and by whom? How was it subdivided and to whom was it sold? What plats were filed? What roads were dedicated?; 3) the history of zoning and regulation - How and when was the land classified? How was use proscribed? what changes in classification occurred?; 4) how did development change when title passed?; 5) what is the present nature and extent of the property?; 6) what were the reasonable expectations of the landowner under state common law?; 7) what were the reasonable expectations of the neighboring landowners under state common law?; and 8) perhaps most importantly, what was the diminution in the investment-backed expectations of the landowner, if any, after passage of the regulation? Once such factors are determined, an application of these facts under the Penn Central multi-factor inquiry would follow.

Id. at 1136. This type of analysis, the Court held, must be engaged in by the trial court even though less than all was taken and the Reahards could still derive some economic benefit from the property after passage of the zoning restriction.

In Florida Rock Indus., Inc. v. United States, 18 F.3d 1560 (Fed. Cir. 1994), the Federal Circuit confronted the issue of whether a partial deprivation resulting from a regulatory imposition, that is, a situation in which a regulation which deprives the owner of a

substantial part but not necessarily all of the economic use or value of the property, constitutes a "taking," and is compensable as such. After a review of Lucas, the Federal Circuit noted that an essentially ad hoc inquiry must be undertaken pursuant to takings jurisprudence, and that there is no bright line dividing compensable from non-compensable exercises of the government's power when a regulatory imposition causes a ***partial*** loss to the property owner. Id. at 1570.

It is for the trial court, as an initial matter, to determine whether a governmental entity acted within its proper role under the particular circumstances. Id. A trial court must consider: 1) whether there are direct compensating benefits accruing to the property, and others similarly situated, flowing from the regulatory environment, or are benefits, if any, general and widely shared through the community and society, while the costs are focused on a few?; and 2) whether there are alternate, permitted activities, economically realistic in light of the setting and circumstances, and are such activities realistically available? Id. at 1571. In short, a trial court must determine whether the government acted in a responsible way, limiting the constraints on property ownership to those necessary to achieve the public purpose, and not allocating to some number of individuals, less than all, a burden that should be borne by all. Id.

Finally, in Florida Rock, the majority took exception with the dissent's assertion that Supreme Court precedent

established that a Fifth Amendment claim that specific property has been taken is an all-or-nothing proposition. Id. "If taken to mean that a regulatory taking cannot result in less than a taking of the property owner's entire fee estate, we cannot agree." Id. at 1572. There has never been any question but that the government can take any kind of recognized estate or interest in property it chooses in an eminent domain proceeding; it is not limited to fee interests. Id. See also Loveladies Harbor, Inc. v. United States, 28 F.3d 1171 (Fed. Cir. 1994)(holding that a taking may have occurred when permits to build single family homes on 12.5 acres of a 51-acre parcel were denied).

A thorough review of takings jurisprudence demonstrates that, contrary to holdings of the Court of Appeals of Maryland and the Court of Special Appeals of Maryland, the U.S. Constitution does not require a showing that a land use regulation must deny a landowner ***all*** economically beneficial productive use of its land to be in violation of the Fifth Amendment. To permit a contrary standard to continue wrongly allows the government to violate the intent and meaning of the Fifth Amendment when it imposes regulations upon landowners which substantially limit, but do not deny all, economically viable uses of land without payment of compensation therefor.

III.

DISMISSAL OF PETITIONER'S COMPLAINT IMPROPERLY RELIEVED BALTIMORE COUNTY OF SATISFYING ITS BURDEN UNDER THE "ROUGH PROPORTIONALITY" TEST, SET FORTH IN *DOLAN V. CITY OF TIGARD*, OF MEETING AN EVIDENTIARY BURDEN CONCERNING THE REQUIRED NEXUS BETWEEN THE ZONING DENIAL AND THE LEGITIMATE INTERESTS OF THE COUNTY.

Despite Petitioner's assertions that courts have repeatedly disapproved of the resolution of takings issues without, at minimum, a preliminary evidentiary hearing, and the Supreme Court's holding that regulatory takings jurisprudence must be determined by engaging in "essentially ad hoc, factual inquiries", Penn Central, supra; the Court of Special Appeals of Maryland upheld the Circuit Court for Baltimore County's dismissal of the Petitioner's Complaint for failing to state a claim upon which relief could be granted. See Naegele Outdoor Advertising, Inc. v. Durhman, 844 F.2d 172, 176-77 (4th Cir. 1988)("resolution of the dispute [regarding the impact of the contested government action] by preliminary hearing rather than by summary judgment is particularly important involving claims of regulatory taking"); Hall v. Santa Barbara, 833 F.2d 1270, 1274 (9th Cir. 1986), cert. denied, 485 U.S. 940 (1988)("in resolving claims for inverse condemnation, the Supreme Court has admitted its inability to develop any 'set formula' for determining when compensation should be paid, resorting instead to 'essentially ad hoc factual inquiries to resolve the question.'"); Lockary v. Kayfetz, 917

F.2d 1150, 1155 (9th Cir. 1990)(". . .the determination of what constitutes an economically viable use of land requires a case-by-case factual analysis of the particular circumstances presented."). Not only did this dismissal fail to recognize the general requirement that trial courts refrain from resolving such claims without a plenary hearing, it also circumvented the Supreme Court's recent decision in Dolan v. City of Tigard, supra, which set forth the "rough proportionality" standard encapsulating the requirements of the Fifth Amendment.

In Dolan, the Court held that under the well-settled doctrine of "unconstitutional conditions," the government may not require a person to give up a constitutional right - here the right to receive just compensation when property is taken for public use - in exchange for a discretionary benefit conferred by the government where the property sought has little or no relationship to the benefit. Dolan, 114 S. Ct. at 2316. See also Perry v. Sindermann, 408 U.S. 593 (1972); Pickering v. Board of Ed., 391 U.S. 563, 568 (1968). In evaluating such a claim, a court must first determine whether the "essential nexus" exists between the "legitimate state interest" and the condition exacted by the governmental entity. Id. See also Nollan, 483 U.S. at 837.

In the present matter, Petitioner does not contend, as the Court of Special Appeals of Maryland seemed to believe, that the State's interests in preserving the water quality of the Loch Raven Reservoir, as well as providing

appropriate educational and recreational facilities for the citizens of Northern Baltimore County, are not legitimate and well-intended. This, however, does not end the analysis.

In Dolan, the Court determined the degree to which the exactions demanded by a government must impact on a property owner's proposed development. After an analysis of the various standards applied by jurisdictions across the country, the Dolan Court ultimately held that a "rough proportionality" test must be applied in determining whether the degree of exactions required by government conditions on a landowner bore the required relationship to the projected impact of the proposed development to satisfy the takings clause of the Fifth Amendment. Id. at 2319. This standard, the Court noted, is somewhere between the very generalized statements as to the necessary connection between the required dedication and the proposed development proclaimed by several jurisdictions, and the "specific and uniquely attributable" test applied by others. Id. at 2318. "No precise mathematical calculation is required, but the [governmental entity] must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." Id. at 2319-20 (footnote omitted).

Specifically, the Court held that the findings relied upon by the City of Tigard to require the landowner to dedicate a portion of her property in a flood plain area as public greenway as a condition for constructing a new

commercial building did not show the required reasonable relationship between the flood plain easement and the landowner's proposed new building necessary to satisfy the requirement of the Fifth Amendment "takings" clause. Id. at 2320. The Court held in this manner even though the City found that the paved parking lot that was included in the proposed development would increase storm water flow from property. The City never expressed a reason why a public greenway, as opposed to a private one, was required in the interest of flood control. Id. Moreover, the City failed to meet its burden of demonstrating that the additional number of vehicle and bicycle trips generated by the Petitioner's proposed commercial development were reasonably related to the City's requirement of dedication of a pedestrian/bicycle pathway easement as a condition of granting the Petitioner's requested building permit. Id. at 2321-22. Again, no precise mathematical calculation was required, but the City was required to quantify its findings in support of the dedication for the pedestrian/bicycle pathway in a manner beyond the conclusory statement that it could offset some of the traffic demand generated by the Petitioner's proposed development. Id.

In the present matter, the Respondent did not meet its burden of justifying the required exactions placed on the Property. In fact, since this matter was finally determined by the Circuit Court for Baltimore County when it granted the Respondent's Motion to Dismiss for Failure to State a Claim, the Respondent was

not required to offer even one scintilla of evidence to justify the exactions imposed on the Petitioner. It cannot be held that a governmental entity has met its burden under the "rough proportionality" test when no evidence supporting the exactions required of a property owner was offered by the regulating governmental authority. At a minimum, a preliminary hearing must be held, and consideration of sufficient evidentiary facts must occur prior to a final judgment being entered in this matter.

IV.

CONCLUSION

For the reasons set forth above, the Petitioner respectfully requests that this Honorable Court issue a Writ of Certiorari to review the order and opinion of the Court of Special Appeals of Maryland affirming the dismissal of the Petitioner's Complaint in the Circuit Court for Baltimore County, Maryland.

Respectfully submitted,

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